

R E M A R K S

An Office Action was mailed on October 24, 2008. Claims 1-10 are pending.

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by Maissel et al (U.S. 2004/0049787 A1). Applicants respectfully disagree.

Claim 1 recites the limitations of “managing a list of preferred programs in accordance with predetermined criteria, *and in which at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium...*

Applicant respectfully submits that the cited Maissel fails to teach or suggest “managing a list of preferred programs in accordance with predetermined criteria, *and in which at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium,*” as claimed in claim 1.

The Office points to paragraphs 134 and 154 of Maissel to show this limitation. Applicants respectfully disagree. In these sections Maissel teaches

that “to customize the program schedule information ... one or more viewer preferences profiles are used.”

Nothing in this section teaches that *at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium*, as claimed in claim 1. As further described in the specification on page 2, line 27 – page 3, line 9:

The program evaluation by other users, on which the method is based, may be gained, for example, from a (remote) enquiry of evaluation notes on the programs of interest. For example, the viewers of a television program may be requested by telephone to evaluate a current program, or they may themselves provide such an evaluation by telephone, e-mail, fax, SMS or the like. The evaluation notes thus obtained can be centrally collected and made available to a user within the scope of the method described. Another suitable and widely used method of program evaluation is to take the audience or viewer number for a current program into account. A high audience or viewer number indicates that the current program is most probably interesting to many users. *It is exactly at this point where the proposed method is superior to the known methods which are only based on predetermined user preferences.* For example, when in accordance with predetermined preferences, this user is not interested in sports or soccer, he may still be interested, by way of exception, in a particularly important soccer match such as the world championship final. By taking audience or viewer numbers into account, the relevant program can be entered into the program list without the user's intervention and against his actual preferences so that the user becomes aware of this program and does not miss it.

The Manual For Patenting Examining Procedure (MPEP) § 2131 clearly sets forth the standard for rejecting a claim under 35 U.S.C. § 102(b). “A claim is

anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (MPEP § 2131, quoting Verdegaal Bros. v. Union Oil Co. of California 2 USPQ2d 1051, 1053 (Fed Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ...claim.” (MPEP § 2131, quoting Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). “The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e. identity of terminology is not required.” (MPEP § 2131, citing In re Bond, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Since Maissel does not teach all of the limitations of independent claim 1, it can not anticipate the present invention. For at least the above cited reasons, Applicant submits that Claim 1 is patentable over Maissel.

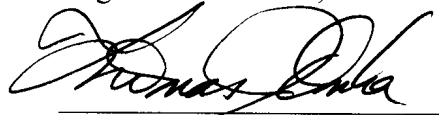
Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Maissel.

With regard to claims 2-10 these claims depend from the independent claim discussed above, which has been shown to be allowable in view of the cited reference. Accordingly, each of claims 2-10 are also allowable by virtue of its dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Thomas J. Onka", written over a horizontal line.

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